

RECEIVED  
CENTRAL FAX CENTER

JUL 27 2005

**Siegesmund & Associates**  
*Intellectual Property Attorneys & Counselors at Law*

4627 N. Central Expressway  
Dallas, Texas 75205-4022  
214-528-2407 (voice)  
214-889-5060 (fax)  
www.siegesmund.com

**FACSIMILE TRANSMITTAL SHEET**

TO:	FROM:
Commissioner of Patents	R. Siegesmund
COMPANY:	DATE:
USPTO	7/27/2005
FAX NUMBER:	NO. OF PAGES INCLUDING COVER:
571-273-8300	30
PHONE NUMBER:	RE:
	Amended Appeal Brief
NOTES/COMMENTS:	

AMENDED APPEAL BRIEF in response to communication mailed 6/28/05 from EXAMINER KINCAID, SUPERVISORY PATENT EXAMINER, ART UNIT 2174

APPLICATION NO. 09/657,116

The information contained in and transmitted with this communication is: Subject to the Attorney-client Privilege; Attorney Work Product; or Confidential. It is intended only for the individual or entity described above. You are hereby notified that any dissemination, distribution, copying, or use of or reliance upon the information contained in and transmitted with this communication by or to anyone other than the recipient designated above by the sender, is unauthorized and strictly prohibited. Any communication erroneously transmitted to you should be immediately returned to the sender by U.S. Mail, or if authorization is granted by the sender, destroyed. If you have received this communication in error, please notify Siegesmund & Associates by telephone at 214-528-2407 immediately.

Received 9 pgs  
out of 30  
p-9 cut off

RECEIVED  
CENTRAL FAX CENTER

JUL 27 2005

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 09/657,116  
Applicant: Martinez  
Filing Date: 9/07/2000  
Group Art Unit: 2174  
Title: Spotlight Cursor

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**AMENDED BRIEF IN SUPPORT OF APPEAL FROM THE PRIMARY EXAMINER TO  
THE BOARD OF PATENT APPEALS & INTERFERENCES**

Dear Sir:

In response to the office communication mailed 6/28/05, the Applicant submits the following amended brief in compliance with 37 CFR 41.37.

*Page 1 of 29*

Attorney Docket No. AUS920000405US1  
Serial No. 09/657,116

### **I. Real Party in Interest**

The real party in interest in the present application is International Business Machines Corporation, a New York corporation having a place of business in Armonk, New York.

### **II. Related Appeals & Interferences**

The Applicant has no knowledge of any appeal or interference proceedings that are relevant to the present application.

### **III. Status of Claims**

The Examiner has rejected pending claims 1-20. The Applicant appeals the Examiner's rejection of all pending claims.

### **IV. Status of Amendments**

All of the amendments have been entered in the present case.

### **V. Summary of the Claimed Subject Matter**

#### **A. Independent Claims.**

1. **Claim 1:** The subject matter of claim 1 is a software program for displaying a spotlight cursor having a circumference where the software program directs a computer to display secondary content without user interaction and when the secondary content is covered by a point on the circumference. See Specification, page 2, line 21- page 3, line 4; page 6, line 22- page 7, line 14.

2. **Claim 6:** The subject matter of claim 6 is a computer readable memory for causing a computer having a cursor to display secondary content where a program causes the computer to display a spotlight cursor having a radius, a circumference, and a center located at the forward most point of the cursor so that when the coordinates of the circumference and the secondary

Attorney Docket No. AUS920000405US1  
Serial No. 09/657,116

content coincide, the secondary content is displayed without user interaction. See Specification, page 2, line 21- page 3, line 4; page 6, line 22- page 7, line 14.

**3. Claim 7.** The subject matter of claim 7 is a computer implemented process to accomplish display of secondary content upon activation by a spotlight cursor including, the steps of obtaining the coordinates of the cursor; calculating the location of a circumference; determining whether the circumference has covered a secondary content; causing a secondary content to be displayed without user interaction; and displaying a menu, determining whether or not secondary contents are to be displayed, selecting the radius, selecting intensity, selecting color for area inside the circumference, selecting color of the circumference, selecting configuration of the circumference, and determining the definition of secondary content. See Specification, page 2, line 21 to page 3, line 4; page 6, line 11 to page 7, line 14.

**4. Claim 8.** The subject matter of claim 8 is a method for creating a spotlight cursor for causing secondary content to be revealed by obtaining the coordinates of the cursor, calculating the location of a circumference, determining whether the circumference has covered a secondary content, and causing the secondary content to be displayed without user interaction. See Specification, page 2, lines 21- page 3, line 4; page 6, line 11- page 7, line 14.

**5. Claim 11.** The subject matter of claim 11 is a method for defining a peripheral area around a cursor and displaying a secondary content, associated with an item when the peripheral area intersects the item, without user interaction. See Specification, page 2, lines 21- page 3, line 4; page 6, line 11- page 7, line 14.

**6. Claim 16.** The subject matter of claim 16 is a program product with instructions to define a peripheral area around a cursor, for displaying a secondary content, associated with an

Attorney Docket No. AUS920000405US1  
Serial No. 09/657,116

item when the peripheral area intersects the item, without user interaction. (See Specification, page 2, lines 21- page 3, line 4; page 6, line 11- page 7, line 14.

**B. Dependent Claims.**

1. **Claim 2.** The subject matter of claim 2 is the programmable apparatus of claim 1 and that the circumference is either a solid line, a broken line, or is not visible. See Specification page 5, lines 9-13.

2. **Claim 3.** The subject matter of claim 3 is the programmable apparatus of claim 1 and that the secondary content is either gradual, all or zone. See Specification page 8, lines 22- page 9, line 9; page 9, line 12 – page 10, line 7.

3. **Claim 4.** The subject matter of claim 4 is the programmable apparatus of claim 1 and that the light within the circumference is of selectable and variable intensity. See Specification page 8, lines 2-6.

4. **Claim 5.** The subject matter of claim 5 is the programmable apparatus of claim 1 and that the area inside the circumference is a pre-selectable color. See Specification page 8, line 6-13.

5. **Claim 9.** The subject matter of claim 9 is the method of claim 8 and determining whether the use has selected the spotlight cursor. See Specification page 7, lines 16-19

6. **Claim 10.** The subject matter of claim 10 is the step of determining whether or not the radius has been selected. See Specification page 7, line 19-20.

7. **Claim 12.** The subject matter of claim 12 is the method of claim 11 and that the peripheral area is a circle. See Specification page 5, lines 3-13.

8. **Claim 13.** The subject matter of claim 13 is the method of claim 11 and that the intersection occurs on a graphical user interface. See FIG. 3 and FIG. 4.

Attorney Docket No. AUS920000405US1  
Serial No. 09/657,116

**9. Claim 14.** The subject matter of claim 14 is the method of claim 11 and that the cursor is a pointer. See Specification page 5, lines 4-6.

**10. Claim 15.** The subject matter of claim 15 is the method of claim 11 and that the secondary content is displayed without the cursor intersecting the time. See Specification page 10, line 3-7, FIG. 10.

**11. Claim 17.** The subject matter of claim 17 is the program product of claim 16 where the peripheral area is a circle. See Specification page 5, lines 3-13.

**12. Claim 18.** The subject matter of claim 18 is the program product of claim 16 where the intersection occurs on a graphical user interface. See FIG. 3-4.

**13. Claim 19.** The subject matter of claim 19 is the program product of claim 16 where the cursor is a pointer. See Specification page 5, lines 4-6.

**14. Claim 20.** The subject matter of claim 17 is the program product of claim 16 where the secondary content is displayed without the cursor intersecting the item. See Specification page 10, lines 3-7; FIG. 10.

## **VI. Grounds of Rejection**

### **A. 35 USC §103**

The examiner rejected claims 1-20 under 35 USC 103(a) as being unpatentable over Lehikoimen et al ("Lehikoimen", US Pat. No. 6,559,872) in view of Clark et al. ("Clark", U.S. Patent NO. 5,995,101).

**1. Claim 1.** The examiner stated that Lehikoimen discloses " a software program for displaying a spotlight cursor having a circumference, and the computer being directed to display secondary content when said secondary content is covered by a point on the circumference"

Attorney Docket No. AUS920000405US1  
Serial No. 09/657,116

(FIG. 2, 3:15-27; 4:5-20) and that Clark discloses secondary content displayed without user interaction (Fig. 2-3; 1:50-63; 2:51-63).

## **2. Claim 2**

The examiner stated that Lehikoimen discloses a circumference visible as a solid line or a broken line or not visible (FIG. 2; circle 100).

## **3. Claim 3**

The examiner stated that Lehikoimen teaches secondary content that may be "gradual, all or zone" (4:5-20).

## **4. Claim 4**

The examiner stated that Lehikoimen teaches that the circumference is of selectable and variable intensity (4:22-33).

## **5. Claim 5**

The examiner stated that Lehikoimen teaches that the area inside the circumference is a pre-selectable color based upon FIG. 2 and the examiner's statement that "it is inherent that the area inside the circle 100 has a color in order to provide the user a visual indication of the cursor."

## **6. Claim 6**

The examiner stated that Lehikoimen discloses a program to cause "the computer to display a spotlight cursor having a radius, a circumference, and a center located at the forward most point of the cursor wherein responsive to coincidence of coordinates on said circumference and said secondary content, said secondary content is displayed (FIG. 2, 3:15-27; 4:5-20, 3:28-32), and that Clark teaches secondary content displayed without user intervention.

## **7. Claim 7**

Attorney Docket No. AUS920000405US1  
Serial No. 09/657,116

The examiner stated that Lehtikoimen discloses the steps of:

- determining whether or not the user has selected the spotlight cursor (4:40-46);
- determining whether or not the radius has been selected (4:22-33 and 50-55)
- obtaining the coordinates of the cursor and calculating the location of the circumference (3:15-25; 3:32-40);
- determining whether the circumference has covered a secondary content and causing the secondary content to be displayed (3:32-40; 4:5-20);
- using a second program, displaying a menu (4:22-33), determining whether or not secondary contents are to be displayed, selecting the radius, and selecting intensity (4:5-20 and 22-33);
- selecting color for area inside the circumference, selecting color of the circumference, and selecting configuration of the circumference (FIG. 2; 4:22-32); and
- determining the definition of secondary content (4:5-20).

The examiner stated that it was inherent that the area inside circle 100 and the perimeter of circle 100 have a color in order to provide a visual indication of the cursor, and that Clark teaches that secondary content is displayed without user interaction (FIGS. 2-3, 1:50-63; 2:51-63).

#### **8. Claim 8**

The examiner stated that Lehtikoimen discloses a method obtaining the coordinates of the cursor and calculating the location of a circumference (3:15-25; 3:32-40), determining whether the circumference has covered a secondary content and causing the secondary content to be displayed (3:32-40; 4:5-20), and that Clark teaches the secondary content is displayed without user interaction (FIGS 2-3; 1:50-63; 2:51-63).

#### **9. Claim 9**



JUL-27-2005 12:45 From:WCM201

Attorney Docket No. A1159200004051151  
Serial No 09/657,116

The examiner stated that Lehtikoimen discloses determining whether or not the user has selected the spotlight cursor (4: 40-46).

**BEST AVAILABLE COPY**